

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

WILLIAM JOSEPH WEBB, JR.,	:	
	:	
Plaintiff,	:	
	:	
v.	:	C. A. No. 07-31 - GMS
	:	
FIRST CORRECTIONAL MEDICAL,	:	
CORRECTIONAL MEDICAL SERVICES,	:	
GOVERNOR RUTH ANN MINNER,	:	
COMMISSIONER STANLEY W. TAYLOR,	:	TRIAL BY JURY OF
BUREAU CHIEF PAUL W. HOWARD,	:	TWELVE DEMANDED
MS. GINA WOLKEN,	:	
DR. ALI, DR. NIAZ, DR. JOHN DOE,	:	
DR. ANE DOE, CORRECTIONAL MEDICAL	:	
SERVICES GRIEVANCE HEARING STAFF,	:	
MS. ROSALIE VARGAS,	:	
JOHN DOE, AND JANE DOE,	:	
	:	
Defendants.	:	

DEFENDANTS' CORRECTIONAL MEDICAL SERVICES,
GINA WOLKEN, AND DR. NIAZ,
ANSWER TO AMENDED COMPLAINT

Defendants Correctional Medical Services, Ms. Gina Wolken, Dr. Niaz, (hereinafter the "Answering Defendants"), by and through the undersigned attorneys, submit their answer to the complaint in the above-referenced action.

- I. No Answer required from answering Defendants. To the extent any answer is required, answering Defendants are without sufficient knowledge or information so as to form a belief as to this allegation and it is therefore deemed to be denied;
- II. To the extent an answer is required, answering Defendants are without sufficient knowledge or information so as to form a belief as to this allegation and it is therefore deemed to be

denied;

III. No Answer is required as to this allegation. To the extent an Answer is required, denied.

WHEREFORE, Defendants demand judgment in their favor plus costs and attorney's fees.

IV. ANSWER TO STATEMENT OF CLAIM

1. Some or all of the claims made in this paragraph have been dismissed pursuant to Court Order dated May 7, 2007. To the extent remaining allegations are found this paragraph, answering Defendants are without sufficient knowledge or information so as to form a belief as to this averment and they are therefore deemed to be denied.
2. Some or all of the claims made in this paragraph have been dismissed pursuant to Court Order dated May 7, 2007. To the extent remaining allegations are found this paragraph, answering Defendants are without sufficient knowledge or information so as to form a belief as to this averment and they are therefore deemed to be denied.
3. Some or all of the claims made in this paragraph have been dismissed pursuant to Court Order dated May 7, 2007. To the extent remaining allegations are found this paragraph, answering Defendants are without sufficient knowledge or information so as to form a belief as to this averment and they are therefore deemed to be denied.

WHEREFORE, Defendants demand judgment in their favor plus costs and attorney's fees.

V. ANSWER TO CLAIM FOR RELIEF

1. Denied.
2. Denied.
3. Denied that the plaintiff is entitled to preliminary injunction or equitable relief.

WHEREFORE, Defendants demand judgment in their favor plus costs and attorney's fees.

ANSWER TO PARAGRAPHS 4-8 ON PAGE SIX OF PLAINTIFF'S COMPLAINT

Some or all of the claims made in these paragraphs have been dismissed pursuant to Court Order dated May 7, 2007. To the extent remaining allegations are found these paragraphs, answering Defendants are without sufficient knowledge or information so as to form a belief as to these averments and they are therefore deemed to be denied.

WHEREFORE, Defendants demand judgment in their favor plus costs and attorney's fees.

AFFIRMATIVE DEFENSES

1. Plaintiff fails to state a claim or claims upon which relief may be granted.
2. Defendants were not deliberately indifferent to a serious medical need.
3. Plaintiff's claims are barred by the applicable statute of limitations.
4. Plaintiff fails to state a claim against defendant Correctional Medical Services upon which relief can be granted as there is no vicarious liability for civil rights claims.
5. The complaint fails to state a claim upon which relief may be granted for punitive damages.
6. Plaintiff has failed to exhaust his administrative remedies.
7. The plaintiff's injuries, if any, resulted from a superseding intervening cause.
8. The plaintiff's injuries, losses, or damages, if any, were the direct, sole, and proximate result of activities or conduct of persons or entities for whom the Answering Defendants are not responsible and over whom the Answering Defendants had no right of authority or control.
9. Answering Defendants deny that they are liable whatsoever to plaintiff. However, if Answering Defendants are held to answer to plaintiff under the allegations against it in the Complaint, then Answering Defendants are entitled to contribution and indemnification from co-

defendants for any amount which answering defendants may be required to pay to plaintiff.

10. This Court lacks subject matter jurisdiction over some or all of plaintiff's claims;
11. This Court lacks personal jurisdiction over some or all of the Answering Defendants;
12. This Complaint should be dismissed due to insufficient process and/or insufficient service of process.
13. To the extent any medical malpractice claim survived the Court Order of May 7, 2007, Plaintiff failed to file an affidavit of merit pursuant to 18 Del.C.§ 6853.
14. Defendants actions furthered a legitimate penological interest.

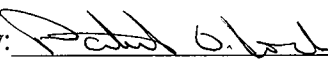
WHEREFORE, Defendants demand judgment in their favor plus costs and attorney's fees.

ANSWER TO ALL PRESENT AND FUTURE CROSSCLAIMS

15. Answering Defendants deny all crossclaims now or hereinafter asserted against them.

WHEREFORE, the Answering Defendants ask that the complaints against them be dismissed with prejudice and all costs and attorney's fees be assessed against the plaintiff.

Marks, O'Neill, O'Brien & Courtney, P.C.

By: 
Patrick G. Rock, Esquire (No. 4632)
Megan T. Mantzavinos, Esquire (3802)
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Attorneys for Answering Defendants

DATED: July 18, 2007

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

WILLIAM JOSEPH WEBB, JR.,

Plaintiff,

v.

C. A. No. 07-31 - GMS

FIRST CORRECTIONAL MEDICAL,
CORRECTIONAL MEDICAL SERVICES,
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DR. ANE DOE, CORRECTIONAL MEDICAL
SERVICES GRIEVANCE HEARING STAFF,
MS. ROSALIE VARGAS,
JOHN DOE, AND JANE DOE,

Defendants.

CERTIFICATE OF SERVICE

I, **Patrick G. Rock, Esquire**, of Marks, O'Neill, O'Brien & Courtney, P.C., hereby certify that on this **18th** day of **July**, 2007, two copies of the attached **Answer to Amended Complaint** were served by regular mail, first class, postage prepaid, upon the following individual:

Inmate William Joseph Webb, Jr., *Pro Se*
SBI #256056
Delaware Correctional Center
1181 Paddock Road
Smyrna, DE 19977

/s/ Patrick G. Rock

Patrick G. Rock, Esquire (No. 4632)
Attorney for Defendant